

CHAPTER 5, ARTICLE 8 — INMATE CIVIL RIGHTS

Revised September 14, 2010

51080.1 Policy

Inmates under the custody of the Department shall not be granted any rights or privileges that are not required by the United States Constitution or by the laws of California. A person sentenced to imprisonment in a state prison may, during that period of confinement, be deprived of such rights, and only such rights, as are reasonably related to legitimate penological interests.

51080.2 Purpose

The policy, procedural, and operational instructions of the Department and its institutions shall be promulgated to meet the requirements of Penal Code (PC) 2600 and 2601.

51080.3 Inmate's Right to Refuse Treatment

Health care treatments, including medications and tests, shall not be forced over the objections of a mentally competent inmate, except when permitted by law to prevent infectious diseases or unless the procedures set forth in DOM 91090 (Involuntary Psychotropic Medications) are followed. When an inmate is unable to make an informed decision due to a medical emergency, all immediately necessary actions shall be taken. An emergency exists when there is a sudden marked change in the prisoner's condition so that action is immediately necessary for the preservation of life or the prevention of serious bodily harm to the patient or others and it is impracticable to first obtain consent.

If medical care requiring informed consent is believed necessary and the inmate cannot make health care decisions in non-emergency situations, the determination on care and treatment will be based on the inmate's health care directive; a surrogate decision maker, including the patient's conservator, guardian, or responsible relative; or through the procedures set forth in Probate Code 3200 et seq. (Authorization of Medical Treatment for an Adult Without a Conservator).

51080.4 Right to Vote

The California Constitution, Article II, Section 4, prohibits imprisoned or paroled individuals, convicted of a felony, from voting. The inmate or parolee must have completed his or her term of imprisonment or parole and be discharged from prison and parole before the right to vote is restored.

51080.5 Inmate Civil Rights

PC 2601 specifies that inmates shall have the following civil rights:

Inmate Real or Personal Property

- To inherit, own, sell, or convey real or personal property, including all written and artistic material produced or created by such person during the period of imprisonment. However, to the extent authorized in PC 2600, CDCR may restrict or prohibit sales or conveyances that are made for business purposes.

Confidential Correspondence

- To correspond, confidentially, with any member of the State Bar of California or holder of public office, provided that the prison authorities may open and inspect incoming mail, in the presence of the addressee, to search for contraband. Confidential correspondence shall be processed in accordance with CCR 3141 through 3145.

Inmate Mail

- To purchase, receive, and read any and all newspapers, periodicals, and books accepted for distribution by the USPS. Disapproved mail shall be handled in accordance with CCR 3136. Pursuant to this section, prison authorities may exclude any of the following matter:
 - Obscene publications or writings, and mail containing information concerning where, how, and from whom this matter may be obtained.
 - Any manner of contraband as described in CCR 3006.
 - Any matter concerning gambling or a lottery.

Nothing in this section shall be construed as limiting the right of prison authorities to open and inspect any and all packages received by an inmate.

Inmates may possess a reasonable number of publications, including books, magazines, and newspapers, as directed by the Authorized Personal Property Schedule in DOM 54030.17. Publications addressed to inmates shall be processed in accordance with CCR 3134.1.

Other Rights

- To initiate civil actions, subject to a \$3 filing fee to be collected by CDCR in accordance with the procedures set forth in DOM 14010.19.1.
- To marry, subject to the procedures provided under DOM 101070.
- To create a power of appointment.
- To make a will.
- To receive all benefits provided for in Labor Code 3370 and 3371 (Worker's Compensation Benefits for Inmates) and in PC 5069 (Rehabilitative Programs for Injured Inmates).

51080.6 Restoration of Civil Rights

Application for restoration of the above-stated civil rights is not required. However, full civil rights may also be restored upon application and grant of a pardon by the Governor, pursuant to PC 4800 et seq. (Reprieves, Pardons, and Commutations), and 4853 (Restoration of Rights).

51080.7 Revisions

The General Counsel, Office of Legal Affairs, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

51080.8 References

Penal Code §§ 2600, 2601, 4800 et seq., 4853, and 5069.

Probate Code §§ 3200 et seq.

Labor Code §§ 3370 and 3371.

California Constitution, Article I, § 28(a)(5).

California Constitution, Article II, § 4.

CCR (15) (3) §§ 3006, 3134.1, 3136, 3141 - 3145, and 3351.

DOM §§ 14010.19.1, 54030.17, 90109, 101070.